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6 Attorneys for Defendants
7 CAPITAL BENEFIT, INC., MARCEL BRUETSCH,
ROBERT V. WILLIAMS, TRUSTEE OF THE
8 WILLIAMS FAMILY TRUST DATED SEPTEMBER 17, 1999,
WALTRAUD M. WILLIAMS, TRUSTEE OF THE WILLIAMS
9 FAMILY TRUST DATED SEPTEMBER 17, 1999
and RICHARD WESTIN

10
11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**

13 REGINALD and RHONDA
14 DRAKEFORD, husband and wife,

15 Plaintiffs,

16 vs.

17 CAPITAL BENEFIT, INC., a California
company; MARCEL BRUETSCH, an
individual; ROBERT V. and
18 WALTRAUD M. WILLIAMS,
individually and as Trustees of the
19 Williams Family Trust; RICHARD
WESTIN, an individual, DOES 1 to 10,
20 inclusive,

21 Defendants.
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CASE NO. 3:20-cv-04161-WHO__

**DEFENDANTS' PROPOSED
VERDICT FORM**

Trial Date: March 22, 2022
Time: 8:30 a.m.
Courtroom: 2

Honorable Judge William H. Orrick

1 We the Jury in the above-entitled action find the following special verdict
2 on the following questions presented to us.

3 For each claim, please answer the following questions.

4 **I. FRAUD**

5 On Capital Benefit, Inc.'s, Marcel Bruetsch's, Robert V. Williams's,
6 Waltraud M. Williams's and Richard Westin's claim for Fraud:

7 We find that Reginald Drakeford committed fraud ____yes ____no

8 We find that Rhonda Drakeford committed fraud ____yes ____no

9 If you answered any of the above questions no, please go to the next claim
10 for relief.

11 If you answered any of the above questions yes, please answer the
12 following question.

13 We award the following damages: \$_____.

14 **II. NEGLIGENCE MISREPRESENTATION**

15 On Capital Benefit, Inc.'s, Marcel Bruetsch's, Robert V. Williams's,
16 Waltraud M. Williams's and Richard Westin's claim for Negligent
17 Misrepresentation:

18 We find that Reginald Drakeford committed negligent misrepresentation
19 ____yes ____no

20 We find that Rhonda Drakeford committed negligent misrepresentation
21 ____yes ____no

22 If you answered any of the above questions no, please go to the next claim
23 for relief.

24 If you answered any of the above questions yes, please answer the
25 following question.

26 We award the following damages: \$_____.

III. TRUTH IN LENDING

As to Reginald and Rhonda Drakeford's claim under the Truth-In-Lending Act:

Was a business purpose loan applied for ____yes ____no

Was a consumer purpose loan applied for ____yes ____no

If you answered that the loan was for a business purpose, please go to the next claim for relief.

If you answered that the loan was for a consumer purpose, please answer the following questions:

Is this claim barred due to unclean hands ____yes ____no

Is this claim barred due to estoppel ____yes ____no

Is this claim barred due to the Drakefords' stated use of the loan proceeds ____yes ____no

Is this claim barred due to the Drakefords' deliberate steps to mislead ____yes ____no

Is this claim barred due to it being an unintentional violation ____yes ____no

Is this claim barred due to it being an unintentional violation based upon the reliance placed upon the Drakefords ____yes ____no

If you answered any of the above questions yes, please go to the next claim for relief.

If you answered all of the above questions no, please answer the following questions.

We award the Drakefords the following damages: \$_____.

IV. BREACH OF CONTRACT

As to Reginald and Rhonda Drakeford's claim for Breach of Contract:

Was a business purpose loan applied for ____yes ____no

Was a consumer purpose loan applied for ____yes ____no

1 If you answered that the loan was for a business purpose, please go to the
2 next claim for relief.

3 If you answered that the loan was for a consumer purpose, please answer
4 the following questions:

5 Is this claim barred due to unclean hands ____yes ____no

6 Is this claim barred due to estoppel ____yes ____no

7 Is this claim barred due to the Drakefords' stated use of the loan proceeds
8 ____yes ____no

9 Is this claim barred due to the Drakefords' deliberate steps to mislead
10 ____yes ____no

11 Is this claim barred due to it being an unintentional violation ____yes
12 ____no

13 Is this claim barred due to it being an unintentional violation based upon
14 the reliance placed upon the Drakefords ____yes ____no

15 If you answered any of the above questions yes, please go to the next claim
16 for relief.

17 If you answered all of the above questions no, please answer the following
18 question.

19 Did the Lenders breach a contract with the Drakefords ____yes ____no

20 If you answered the above question yes, please answer the following
21 question:

22 If the Lenders breached a contract with the Drakefords, how was it
23 breached: _____

24 If you could not answer the above question, please go to the next claim for
25 relief.

26 If you did answer the above question, please answer the following
27 question:

28 We award the Drakefords the following damages: \$ _____.

V. REAL ESTATE SETTLEMENT PROCEDURES ACT

As to Reginald and Rhonda Drakeford's claim for Real Estate Settlement Procedures Act:

Was a business purpose loan applied for ____yes ____no

Was a consumer purpose loan applied for ____yes ____no

If you answered that the loan was for a business purpose, please go to the next claim for relief.

If you answered that the loan was for a consumer purpose, please answer the following questions:

Is this claim barred due to unclean hands ____yes ____no

Is this claim barred due to estoppel ____yes ____no

Is this claim barred due to the Drakefords' stated use of the loan proceeds ____yes ____no

Is this claim barred due to the Drakefords' deliberate steps to mislead ____yes ____no

Is this claim barred due to it being an unintentional violation ____yes ____no

Is this claim barred due to it being an unintentional violation based upon the reliance placed upon the Drakefords ____yes ____no

If you answered any of the above questions yes, please go to the next claim for relief.

If you answered all of the above questions no, please answer the following question.

We award the Drakefords the following damages: \$_____.

VI. ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT

As to Reginald and Rhonda Drakeford's claim for Rosenthal Fair Debt Collection Practices Act:

Was a business purpose loan applied for ____yes ____no

1 **Was a consumer purpose loan applied for ____yes ____no**

2 **If you answered that the loan was for a business purpose, please go to the**
3 **next claim for relief.**

4 **If you answered that the loan was for a consumer purpose, please answer**
5 **the following questions:**

6 **Is this claim barred due to unclean hands ____yes ____no**

7 **Is this claim barred due to estoppel ____yes ____no**

8 **Is this claim barred due to the Drakefords' stated use of the loan proceeds**
9 **____yes ____no**

10 **Is this claim barred due to the Drakefords' deliberate steps to mislead**
11 **____yes ____no**

12 **Is this claim barred due to it being an unintentional violation ____yes**
13 **____no**

14 **Is this claim barred due to it being an unintentional violation based upon**
15 **the reliance placed upon the Drakefords ____yes ____no**

16 **If you answered any of the above questions yes, please go to the next claim**
17 **for relief.**

18 **If you answered all of the above questions no, please answer the following**
19 **question.**

20 **Did the Lenders violate the Rosenthal Fair Debt Collection Practices Act**
21 **____yes ____no**

22 **If you answered the above question yes, please answer the following**
23 **question: If the Lenders violated the Rosenthal Fair Debt Collection Practices**
24 **Act, how was it violated:_____.**

25 **If you could not answer the above question, please go to the next claim for**
26 **relief.**

27 **If you did answer the above question, please answer the following**
28 **question:**

1 We award the Drakefords the following damages: \$_____.

2 **VII. BREACH OF FIDUCIARY**

3 As to Reginald and Rhonda Drakeford's claim for Breach of Fiduciary
4 Duty:

5 Was there a breach of a fiduciary duty which was owed to the Drakefords
6 ____yes ____no

7 If you answered no, please go to the next claim for relief.

8 If you answered yes, please answer the following questions:

9 If there was a breach of fiduciary duty, how was it breached:

10 _____.

11 Is this claim barred due to unclean hands ____yes ____no

12 Is this claim barred due to estoppel ____yes ____no

13 Is this claim barred due to the Drakefords' stated use of the loan proceeds

14 ____yes ____no

15 Is this claim barred due to the Drakefords' deliberate steps to mislead

16 ____yes ____no

17 Is this claim barred due to it being an unintentional violation ____yes

18 ____no

19 Is this claim barred due to it being an unintentional violation based upon

20 the reliance placed upon the Drakefords ____yes ____no

21 If you answered any of the above questions yes, please go to the next claim
22 for relief.

23 If you answered all of the above questions no, please answer the following
24 question.

25 We award the Drakefords the following damages: \$_____.

26 **VIII. PUNITIVE DAMAGES**

27 Did any party to this case engage in conduct, for which you have awarded
28 relief for Breach of Fiduciary Duty or Fraud, with malice, oppression, or fraud?

_____ Yes _____ No

If you answered the above question yes, please go to the next question.

If you answered the question no, please sign and date at the bottom of this verdict.

Which of the following parties engaged in conduct with malice, oppression, or fraud?

Reginald Drakeford _____yes ____no

Rhonda Drakeford _____yes ____no

Capital Benefit, Inc. _____yes ____no

Marcel Bruetsch _____yes ____no

If you answered any of the above questions yes, please fill in the name of the party who engaged in conduct with malice, oppression or fraud and then state on the line across from it which finding you made as to that person, for example: John Doe – Malice:

Name

Finding

Signed:

Presiding Juror

Dated: